

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
ERIE DIVISION

HANNAH SILBAUGH,  
Plaintiff

v.

MARC NELSON, DAVID SMITH,  
ANTHONY ATTALLA, JOHN DOE 4,  
JOHN DOE 5, DANIEL SPIZARNY,  
JOSEPH V. SCHEMBER, and CITY OF  
ERIE,  
Defendants

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: CIVIL ACTION – LAW  
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: Docket No. 1:20-cv-00252-SPB  
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: *Electronically Filed*  
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: **JURY TRIAL OF 12 DEMANDED**  
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**PLAINTIFF’S RESPONSE OBJECTING TO DEFENDANTS’ REQUEST FOR  
EXTENSION OF TIME**

NOW COMES the Plaintiff, Hannah Silbaugh, by counsel and responds to the Defendants’ Motion for Extension of Time to File response to Plaintiff’s Complaint, respectfully representing:

1. Admitted that Plaintiff filed the Complaint in the Court of Common Pleas of Erie County and that Defendants have filed a copy in this Court.

2. The averments of Paragraph 2 are completely irrelevant to any consideration of this Motion. Defendants have been aware of this case and their need to defend it since the event occurred on May 30<sup>th</sup>. Had Plaintiff filed her Complaint in the United States District Court, she would have served it by Constable in order to shorten the time for a response.

3. Defendants have made no effort to discuss any alleged deficiencies in Plaintiff’s Complaint. Plaintiff submits that her Complaint fully states causes of action

and that the filing of any Motion to Dismiss would merely be dilatory, especially given the dilatory nature of the pending Motion.

4. Admitted.

5. It is admitted that the Compliant names Mayor Schember as a Defendant based on his personal failure to enforce or formulate constitutional policies governing Use of Force procedures, for which he is personally responsible, and the Chief of Police is named as a Defendant based upon the fact that he was in charge of the Bureau of Police's response to the demonstration occurring on May 30<sup>th</sup> and is personally required to plan and properly execute such a response, and failed to do that.

6. Denied.

7. While Defendants no doubt have intentions, they have had plenty of opportunity to communicate with counsel for Plaintiff and have done nothing but request additional time to respond to the very simple and obvious facts set forth in the Complaint. Defendants have not identified any deficiency in the Complaint.

8. Defendants have had plenty of opportunity to confer and have failed to do so. The causes of action in the Complaint are available in any hornbook on civil rights law. The appropriate response would be to admit the deficiencies in the City's response to the peaceful demonstration in which Plaintiff participated, remedy its constitutionally defective procedures and compensate the Plaintiff appropriately for the damages she has sustained.

9. Plaintiff has not been asked to amend her Complaint. Should Plaintiff amend her Complaint, the Federal Rules of Civil Procedure set forth the appropriate period of time for Defendants to respond.

10. Defendants' request for an additional sixty days is simply unjustified. It is clear that Defendants intend to delay the disposition of this case as long as they can. While that may be prudent, given their obvious liability, it is not fair to the Plaintiff to delay her case for no reason other than that the Defendants do not want to deal with it.

11. It is admitted that there was a brief discussion of an extension of time, but no specific request was made and Plaintiff referred to the Rules, which provide time limits for response.

12. In reviewing Defendants' Motion, it is obvious that the Defendants have not presented any exceptional circumstance or hardship preventing a timely response.

13. Given that there is no reason to extend the time to respond, much less delay the disposition of this case for an additional two months, Defendants' Motion should be denied.

WHEREFORE, Plaintiff respectfully requests this Honorable Court deny Defendants' Motion to Extend the Time to Response to Plaintiff's Complaint.

Respectfully submitted,

MCNAIR LAW OFFICES, PLLC

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